UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,142	04/20/2001	Raymond E. Suorsa	PA3939US	9523

22830 7590 06/05/2007

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

EXAMINER	
LESNIEWSKI, VICTOR D	
ART UNIT	**PAPER NUMBER**
2152	

MAIL DATE	DELIVERY MODE
06/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/838,142	SUORSA ET AL.	
	Examiner	Art Unit	
	Victor Lesniewski	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 April 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *32-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *32-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *4/9/2007 and 4/24/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The amendment filed 4/2/2007 has been placed of record in the file.

2. No claims have been amended.

3. Claims 32-38 are now pending.

4. The applicant's arguments with respect to claims 32-38 have been fully considered but they are not persuasive. A detailed discussion is set forth below.

Information Disclosure Statement

5. The IDS filed 4/9/2007 and the IDS filed 4/24/2007 have been considered.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 32, 33, and 36-38 remain rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (U.S. Patent Number 6,816,964), hereinafter referred to as Suzuki.

8. Suzuki has disclosed:

- <Claim 32>

  A method for executing commands in a system having a database (figure 2, item 105), a plurality of devices remote from the database (figure 1, items 200) and a gateway (figure

2, item 107) that provides a communications interface between said remote devices and said database, comprising the following steps: storing a queue in said database containing a sequence of commands to be executed (figure 1, item 11); retrieving, at said gateway, a command from the queue and transmitting the retrieved command from the gateway to an agent running on at least one of said remote devices, for execution on said one device (column 8, lines 19-24); at said gateway, receiving a message from the agent reporting the results of the execution of the command (column 8, lines 25-28); retrieving, at said gateway, the next command from the queue in response to receipt of said message, and transmitting said retrieved next command to the agent for execution (column 8, lines 28-37); in response to receiving a message at the gateway from the agent reporting the results of the execution of at least one command, transmitting a command from the gateway to the agent on the remote device to initiate a reboot process (column 8, lines 38-40); placing the queue in a reboot status in response to the initiation of the reboot process (column 8, lines 40-45); receiving at the gateway a message from the agent indicating the completion of the reboot process at the remote device (column 8, lines 46-49); removing the queue from reboot status in response to said message, and checking at the gateway whether any commands remain in the queue that have not yet been completed (column 8, lines 49-53); and resuming the step of retrieving commands in the queue and transmitting them to the agent if uncompleted commands are determined to be present in the queue (column 8, lines 49-53).

- <Claim 33>

  The method of claim 32, wherein said queue is placed in said reboot status in response to receipt at said gateway of a message from the agent on the remote device indicating that the reboot process is in progress (column 8, lines 40-45).

- <Claim 36>

  The method of claim 32, further including the step of updating the status of the queue to indicate the command that has been most recently transmitted to the agent for execution (column 10, lines 28-34).

- <Claim 37>

  The method of claim 32, wherein said sequence of commands cause the agent to install and configure software on the remote device (column 8, lines 31-37).

- <Claim 38>

  The method of claim 32, wherein said message indicating the completion of the reboot process at the remote device includes a report of the configuration of the remote device (column 9, lines 8-12).

Since all the limitations of the invention as set forth in claims 32, 33, and 36-38 were disclosed by Suzuki, claims 32, 33, and 36-38 are rejected.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 34 and 35 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki, as applied above, in view of Official Notice. In response to the applicant's request for documentary evidence under MPEP 2144.03, the use of Official Notice is herein supported by Gonda et al. (U.S. Patent Number 6,662,221), hereinafter referred to as Gonda. Thus, claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Gonda.

11. Suzuki disclosed a method of remotely installing a program on a client by a pre-downloaded agent that records an install execution state of the client. In an analogous art, Gonda disclosed a method for remotely configuring network elements in order to satisfy conditions associated with a user's request.

12. Concerning claims 34 and 35, Suzuki did not explicitly state opening a new communication session comprising a secure socket with the gateway. However, the ability to begin a new communication session between a client and a server was well known in the art at the time of the applicant's invention, especially in systems attempting to securely transmit a message from one side to the other. Further, the use of a secure socket for communications sessions and the use of SSL were well known in the art at the time of the applicant's invention. This is evidenced by Gonda who explicitly states opening a new communication session via SSL between a client and a gateway. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Suzuki by adding the ability to open a new communication session comprising a secure socket with the gateway as provided by Gonda. Here the combination satisfies the need for greater security in the transmission of messages over a network as is well known in the art.

13. Thereby, the combination of Suzuki and Gonda discloses:

- <Claim 34>

  The method of claim 33, wherein said agent opens a new communication session with said gateway to transmit said message (Gonda, column 7, lines 60-67).

- <Claim 35>

  The method of claim 34, wherein said new communication session comprises a secure socket (Gonda, column 7, lines 60-67).

Since the combination of Suzuki and Gonda discloses all of the above limitations, claims 34 and 35 are rejected.

Response to Arguments

14. In the remarks, the applicant has argued:

- <Argument 1>

  Suzuki does not disclose the features of claim 32 because he does not disclose "a database" and "a queue" as recited in claim 32.

- <Argument 2>

  Suzuki does not disclose the features of claim 32 because he does not disclose "retrieving, at a gateway, a command from the queue and transmitting the retrieved command from the gateway to an agent running on at least one of said remote devices" as recited in claim 32.

- <Argument 3>

  Suzuki does not disclose the features of claim 32 because he does not disclose "at said gateway, receiving a message from the agent reporting the results of the execution of the command" as recited in claim 32.

- <Argument 4>

  Suzuki does not disclose the features of claim 32 because he does not disclose "placing the queue in a reboot status in response to the initiation of the reboot process" as recited in claim 32.

- <Argument 5>

  Suzuki does not disclose the features of claim 32 because he does not disclose "retrieving at the gateway a message from the agent indicating the completion of the reboot process at the remote device" as recited in claim 32.

- <Argument 6>

  Suzuki does not disclose the features of claim 32 because he does not disclose "removing the queue from reboot status in response to said message, and checking at the gateway whether any commands remain in the queue that have not yet been completed" as recited in claim 32.

- <Argument 7>

  Suzuki does not disclose the features of claim 33 because he does not disclose "wherein said queue is placed in said reboot status in response to receipt at said gateway of a message from the agent on the remote device indicating that the reboot process is in progress" as recited in claim 33.

- <Argument 8>

  Suzuki does not disclose the features of claim 36 because he does not disclose "updating the status of the queue to indicate the command that has been most recently transmitted to the agent for execution" as recited in claim 36.

- <Argument 9>

  Suzuki does not disclose the features of claim 38 because he does not disclose "wherein said message indicating the completion of the reboot process at the remote device includes a report of the configuration of the remote device" as recited in claim 38.

15. In response to argument 1, Suzuki does disclose a database and a queue as recited in claim 32. The previous line citations, figure 2, item 105 and figure 1, item 11, show a hard disk drive for data storage and a script file comprising execution script S. Concerning a database as being composed of records, etc., see also column 6, lines 51-59. Concerning the term queue, it is noted that the claim defines the term as "containing a sequence of commands to be executed." Again, Suzuki's script file comprises execution script S.

16. In response to argument 2, Suzuki does disclose retrieving a command as recited in claim 32. The previous line citation, column 8, lines 19-24, shows the downloading of the agent 12 to the client so that the agent may retrieve commands from the server.

17. In response to argument 3, Suzuki does disclose receiving a message as recited in claim 32. The previous line citation, column 8, lines 25-28, shows the agent accessing the managing record file in the server, i.e. the agent messaging the server. See also column 8, lines 40-45, which discusses further times when the agent messages the server.

18. In response to argument 4, Suzuki does disclose placing the queue in a reboot status as recited in claim 32. The previous line citation, column 8, lines 40-45, shows that a boot flag is set and a reboot is then executed. During reboot, execution commands in the script file are held and this is considered to meet the limitation of "a reboot status."

19. In response to argument 5, Suzuki does disclose retrieving a message from the agent as recited in claim 32. The previous line citation, column 8, lines 46-49, shows that the reboot is completed and that the agent again accesses the managing record file in the server, i.e. the agent messages the server.

20. In response to argument 6, Suzuki does disclose removing the queue from reboot status as recited in claim 32. The previous line citation, column 8, lines 49-53, shows that the agent executes a continuation of the execution script S. Since execution commands in the script file are held during reboot, continuation of execution commands meets the limitation of "removing the queue from reboot status."

21. In response to argument 7, Suzuki does disclose receipt of a message indicating that the reboot process is in progress as recited in claim 33. As discussed in the response to argument 4 above, column 8, lines 40-45, shows that a boot flag is set and a reboot is then executed. During reboot, execution commands in the script file are held and this is considered to meet the limitation of "a reboot status."

22. In response to argument 8, Suzuki does disclose updating the status of the queue as recited in claim 36. The previous line citation, column 10, lines 28-34, shows that the agent is able to continue installation after reboot because the status of the execution state is recorded. This execution state refers to the execution commands of the script file.

23. In response to argument 9, Suzuki does disclose including a report of the configuration of the remote device as recited in claim 38. The previous line citation, column 9, lines 8-12, shows that the agent notifies the server that all the installation has been finished. A completed installation and/or finished service meets the limitation of a configuration of the remote device.

24. In addition, the applicant has argued that claims rejected under 35 U.S.C. 102 and 35 U.S.C. 103, but not explicitly discussed, are allowable based on the above arguments. Thus, claims disclosing similar limitations to the discussed claims and related dependent claims remain rejected under the same reasoning as presented above.

Conclusion

25. The applicant's amendment necessitated the new grounds of rejection presented in this office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). The applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VL

Victor Lesniewski
Patent Examiner
Group Art Unit 2152

6/4/7

BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER